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AF/1772

THE UNITED STATES PATENT AND TRADEMARK OFFICE



In re application of
W. BAKKER, et al.

Serial No.: 08/977,374

Filed: November 24, 1997

For: **DEVICE FOR HEAT
SHRINKING FILM ONTO
AN OPEN-TOPPED
CONTAINER**

Date of Examiner's Answer:
August 10, 2005

Attorney Docket No.:
PZNZ 2 00017-1

) Examiner: W. WATKINS III

) Art Unit: 1772

) Confirmation: 3062

) Cleveland, OH 44114
) October 10, 2005

REPLY BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Reply Brief is responsive to the Examiner's Answer of August 10, 2005. The Applicants again request reversal of all outstanding rejections.

Looking first to the Examiner's explanation of the rejection of claims 36, 37, 38, and 41 in Paragraph 9A, it is submitted that the Examiner has applied the references contrary to their clear teachings. The Examiner concludes that:

"It would have been obvious to one of ordinary skill in the art to join an opaque heat shrinkable thermoplastic material to the downwardly extending edge of Heilman, or make the downwardly extending edge portion of an opaque heat shrinkable thermoplastic material in order to directly absorb infrared radiation and use only a limited number of lamps because of the teachings of Amberg."

Certificate of Mailing

I certify that this **REPLY BRIEF** in connection with Ser. No. 08/977,374 are being
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Date
October 10, 2005

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| Printed Name Hilary M. McNULTY |

Amberg does teach making a downward extending skirt of a heat shrinkable thermoplastic material, but he teaches making it in a specifically disclosed manner using mandrels, thermal forming process, and its interconnection with a separate paper board or non-shrinkable plastic centered disk or panel 14. Amberg does not teach how to adapt a continuous sheet process as shown in Heilman to the attachment of an opaque heat-shrinkable skirt. Rather, Amberg teaches a substitute process in which, rather than a continuous sheet, one pre-forms discrete covers which are later used to seal containers. As each container is closed, one of the previously formed lids is inserted onto the container and its skirt heat shrunk. If one were to "modify" Heilman in such a manner, one would effectively eliminate the continuous sheet and substantially all recited elements of Heilman upon which the Examiner appears to be relying in his rejection. That is, the alleged combination of Heilman and Amberg and should more properly be reviewed as a substitution of the Amberg technique for the Heilman technique. The second part of the Examiner's assertion about changing the edge portion of Heilman to absorb infrared radiation directly is not supported by the applied references. The Examiner points to no specific part of the references in support of this assertion. Neither Heilman nor Amberg make any suggestion of a single sheet material with different properties in the center and the edge. To the contrary, Amberg specifically teaches that the center portion 14 and the skirt 15 should be of different materials (column 3, lines 17-33).

Because applying the fair teaches of Amberg eliminates the film concept and substitutes a pre-formed two-piece closure, it is submitted that claims 36, 37, 38, and 41 distinguish patentably and unobviously over the references of record.

Looking to the Examiner's rejection of claims 39, 40, and 42-46 as set forth in paragraph 9B, the Applicants first refer the reader to the above-discussed defect in the Examiner's combination of Heilman and Amberg. The Examiner's further application of Anderson is misapplied. Anderson discloses a system for sealing the edge of a substrate web material 4 which has a thermoplastic projecting edge 5. Specifically, a dark-colored strip 6 is formed on the substrate material. The colored strip is heated to a temperature sufficient to melt the thermoplastic edge (column 2, lines 55-57). It is important that the thermoplastic edge 5 is not affected by this heating in order to facilitate handling and folding of the edge 5 around the substrate web 4 (column 2, lines 61-68). Because the thermoplastic edge does not

become sticky or tacky, it is easily handled in the folding process. It is only upon being pressed against the heated substrate strip that thermal adhesion is achieved.

It is submitted that if one were to apply the fair teachings of Anderson to Heilman or Amberg, one would place a black strip on the substrate, i.e., the cup to be sealed. The plastic sheet or skirt which is to be attached to the cup, according to the Anderson teachings, should not be softened or heated by the IR light. Only the blackened strip on the cup should be heated. The unheated sheet or flange, according to Anderson, is first heated when pressed against the hot strip on the cup to form the seal.

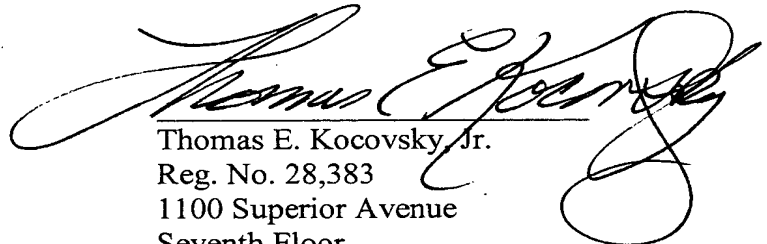
Because Anderson teaches a combination which is quite different from the combination which the Examiner reconstructs by hindsight in light of the present disclosure, it is submitted that claims 39, 40, and 42-46 distinguish patentably over the prior art of record.

The Examiner's Response to Arguments are noted, but are deemed unpersuasive. The Examiner continues to ignore the fair teachings of the applied references.

Because applying the fair and clear teachings of Amberg and Anderson to the Heilman technique results in a very different structure than that asserted by the Examiner or set forth in the present claims, it is submitted that all claims distinguish patentably and unobviously over the references of record. An early reversal of the Examiner's rejections is requested.

Respectfully submitted,

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